

JOSE CALDERON, JR. §
VS. § CIVIL ACTION NO. 1:09cv177
L. WALKER, ET AL. §

Plaintiff Jose Calderon, Jr., an inmate at the Hughes Unit, proceeding *pro se*, brought this civil rights suit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed as frivolous and for failing to state a claim upon which relief may be granted.

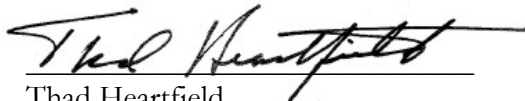
The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.¹

¹ Plaintiff filed a document titled "Plaintiff's objection to Magistrate's Recommendation." However, plaintiff explained that he had started to object but, after further review, chose to withdraw the complaint. Plaintiff requested that the court dismiss the complaint without prejudice. Accordingly, the report will be adopted to the extent it recommended dismissal and the dismissal will be without prejudice.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED** to the extent it recommends dismissal. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this the **4** day of **August, 2009**.


Thad Heartfield
United States District Judge